that the preliminary amendment was filed on March 15, 2000. On May 4, 2002, at the request of the previous Examiner, Examiner Poinvil, Applicant's representative faxed a copy of the preliminary amendment to Examiner Poinvil, along with the stamped postcard showing its March 15, 2002 filing date.

In the Office Action, the Examiner objected to the specification under 35 U.S.C § 112, first paragraph and because of informalities regarding the computer program listing; objected to claim 11 based on a minor informality; rejected claims 11-13 under 35 U.S.C. § 112, first paragraph; and rejected claims 11-13 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,652,785 to *Richardson* Jr., et al. (*Richardson*). Applicant has amended the specification and claims to correct the informalities and remedy the objections. Applicant is filing herewith a computer program listing appendix provided in duplicate on two compact discs. Applicant traverses the Examiner's rejections.

<u>35 U.S.C. § 112, First Paragraph Objection to the Specification</u>

In the Office Action, the Examiner objected to the specification under 35 U.S.C. § 112, first paragraph, alleging that the specification fails to support the subject matter set forth in the claims. (OA ¶ 5.) Specifically, the Examiner alleged that the specification does not provide an enabling disclosure explaining how the verification steps are performed as recited in claims 11 and 13. (Id.) Applicant respectfully disagrees.

In making the various references to the specification and drawings set forth herein, it is to be understood that Applicant is in no way intending to limit the scope of the claims to the exemplary embodiments shown in the drawings and described in the specification. Rather, Applicant expressly affirms that he is entitled to have the claims

-4-

interpreted broadly, to the maximum extent permitted by statute, regulation and applicable case law.

Contrary to the Examiner's allegations, the specification as originally filed clearly describes to one of ordinary skill in the art that the Applicant had possession of the invention recited in claims 11-13. The Examiner asserted that "having a copy of the source code in the specification does not describe in details the steps of the claimed subject matter." Applicant respectfully disagrees.

The source code contains a detailed description of an embodiment in accordance with the features recited in claims 11-13. For example, with respect to the recited claim feature of verifying that the right information is current, one of ordinary skill in the art would understand the source code's detailed description shows that Applicant had possession of this feature at the time the present application was filed. The source code describes reading the current time (as-filed specification at p. 82, line 20), reading the timestamp of the flight information download file (*Id.* at p. 82, line 21; 83, lines 6-10), subtracting the current time from the timestamp (*Id.* at p. 83, lines 1, 8), taking the absolute value of the subtraction result (*Id.*), and comparing the absolute value to 360 seconds to verify whether the flight information in the file is current (*Id.*).

Similarly, as shown below in the next section, the source code also provides support for the other features recited in claims 11-13.

For at least the foregoing reasons, the specification fully complies with 35 U.S.C. § 112, first paragraph. Accordingly, Applicants respectfully request the Examiner to withdraw the 35 U.S.C. § 112 objection.

<u>35 U.S.C. § 112, First Paragraph Rejection of the Claims</u>

In the Office Action, the Examiner rejected claims 11-13 under 35 U.S.C. § 112, first paragraph, as containing subject matter not properly described in the specification. (OA ¶ 7.) The Examiner alleged that the specification as originally filed does not provide an enabling disclosure to support "the use of a signal conversion database, and the limitations (e-g) of claim 11, and the detailed steps of claims 12, and 13." (OA ¶¶ 5, 7.) Applicant respectfully traverses this rejection.

The test for sufficiency of support under 35 U.S.C. § 112, first paragraph in a patent application is whether the disclosure of the application as originally filed reasonably conveys to the artisan that the inventor had possession at that time of the later claimed subject matter. *Vas-Cat, Inc. v. Mahurkar*, 935 F.2d 1555, 1565 (Fed. Cir. 1991). Notably, the specification need not disclose what is well-known to those skilled in the art and preferably omits that which is well-known to those skilled and already available to the public. *In re Buchner*, 929 F.2d 660, 661 (Fed. Cir. 1991); M.P.E.P. § 2164.05(a) (Feb. 2000). As explained below, the specification, including the detailed source code listing, clearly conveys to one of ordinary skill in the art that the Applicant had possession of each recited feature in claims 11-13 at the time of filing.

The specification reasonably conveys to the artisan an embodiment of the features "storing flight information in a signal conversion database" and "retrieving flight information from the signal conversion database" as recited in claim 11. For example, page 9, lines 1-7 of the specification describe an embodiment that converts the flight information to a wave file, stores it into an audio wave file database, then retrieves the flight information from the wave file database The specification states:

-6-

Personal computer 45 takes the information retrieved from the file server 25 and converts it to an audio wave file. In the present invention, this is a typical audio wave file as developed by Microsoft. In this process, the soundblaster is initialized. The core of this function is called playwave. It first initializes the soundblaster. Then in the next step it allocates memory to receive the header information. It checks to make sure the digital signal processor is present and functioning properly The playwave function calls all subsequent function to the header file to read the wave.

Specification, page 9, lines 1-7.

Each of the steps of converting data into audio wave format, storing the converted data in a file, and retrieving the converted data from the file was well known to those skilled in the art at the time this application was filed.

The specification also reasonably conveys to the artisan an embodiment of the features "sorting retrieved flight information into a desired sequence," "radio broadcasting sequenced flight information," and "radio broadcasting standardized opening messages" as recited in claim 11. For example, radio broadcasting flight information is described, among other places, in the detailed diagrams shown in Figures 1 and 2 and the accompanying descriptions. Figure 1 shows the audio output from PC 45 going through the PC's audio plug 55 into telephone circuit 60. (As-filed specification at p. 18, lines 24-25; p. 19, lines 11-13.) Figure 2 shows the telephone circuit 60 feeding the audio output into airport LAN 63 were it is fed into equalizer 70 and radio transmitter 65 for broadcast from radio antennae 75. (As-filed specification at p. 18, lines 25 - p. 19, line 4; p. 19, lines 11-13.)

Furthermore, the source code on page 88, line 15 of the as-filed specification describes sorting the flight information into a sequence using the "sortflight" procedure, and procedure "sayflight" on page 91, line 4 through page 93, line 3 creates an audio

Application No.: 09/502,490
Filed: February 11, 2000
Docket No.: 07099.0773-01

output of the flight information, which is then broadcast as described in Figures 1 and 2. In addition, Figure 3 shows sorting flight information and "speaking" flight information for broadcasting. (As-filed specification at p. 19.)

An embodiment of the feature "radio broadcasting standardized opening messages," is described, among other places, on page 18 of the as-filed specification: "In another embodiment the present invention may have a continuous loop that periodically repeats the identity of the airline for whom the flight information is being provided." Also, the source code describes numerous examples of broadcasting standardized opening messages. For example, page 91, lines 19-21 of the specification describe a titlefile being played periodically during broadcast before the flight information. Similarly, page 92, lines 1-4 describe playing a standardized headerfile for broadcast, and page 92, lines 19-22 describe playing a standardized gatephrase for broadcast. In addition, Figure 3 shows playing standardized opening messages for broadcasting. (See as-filed specification at p. 19.)

The as-filed specification also reasonably conveys to the artisan an embodiment of the feature "determining an end program sequence termination request" as recited in claim 11. For example, Figure 3 shows an embodiment in which the program terminates when the escape key is pressed. How to terminate a program when the escape key is pressed was well known in the art at the time of filing.

The as-filed specification also reasonably conveys to the artisan an embodiment of the feature "verifying that the flight information is current before storing the flight information in the signal conversion database" as recited in claim 11. For example, pages 82-83 of the specification (now in the computer program listing appendix) clearly

-8-

disclose source code for an embodiment that checks the timestamp of the semaphore file used to communicate the flight information and signals whether the information is current or too old. In addition, this portion of the specification also discloses computer code that checks the timestamp of the actual datafile containing the flight information and determines whether the flight information is current or too old. Specifically, as mentioned above, the source code describes reading the current time (as-filed specification at p. 82, line 20), reading the timestamp of the flight information download file (Id. at p. 82, line 21; 83, lines 6-10), subtracting the current time from the timestamp (Id. at p. 83, lines 1, 8), taking the absolute value of the subtraction result (id.), and comparing the absolute value to 360 seconds to verify whether the flight information in the file is current. (Id.)

Regarding claim 12, the as-filed specification reasonably conveys to the artisan an embodiment of the recited features "determining whether a designated key has been depressed," and "terminating performance of the method based on a determination that the designated key has been depressed." For example, figure 3 shows an embodiment in which the program terminates when the escape key is pressed. As noted above, some common features, such as how to terminate a program when the escape key is pressed, were well-known in the art at the time of filing.

Regarding claim 13, the as-filed specification reasonably conveys to the artisan an embodiment of the recited features "determining whether flight information has been received from a flight information file server within a predetermined period of time" and "establishing communications with the flight information file server based on a determination that flight information has not been received within a predetermined

period of time." For example, the specification describes an embodiment that monitors a particular memory location to determine whether flight information has been received from a flight information file server within a predetermined period of time and forces a hard reading to establish communications with the flight information file server based on a determination that flight information has not been received within a predetermined period of time. (*See* as-filed specification at p. 6, lines 1-7.)

As another example, as explained above, pages 82-83 of the specification disclose source code for an embodiment that checks the timestamp of the semaphore file used to communicate the flight information and determines whether the flight information was received within a predetermined period of time. Similarly, this portion of the specification also discloses source code that checks the timestamp of the actual datafile containing the flight information and determines whether the flight information is current (within a predetermined period of time) or too old.

For at least the foregoing reasons, the disclosure of the application as originally filed reasonably conveys to the artisan that the Applicant had possession of the subject matter recited in claims 11-13 at the time the application was filed. Accordingly, Applicant respectfully requests that the Examiner withdraw the 35 U.S.C. § 112, first paragraph rejections of claims 11-13.

Objection to Computer Program Listing Printed in Specification

In the Office Action, the Examiner objected to the specification because it contains a computer program listing longer than 10 pages. (OA ¶ 8.) Applicant has amended the specification to delete the computer program listing and replace it with a brief description of the functionality of the program. Applicant submits herewith a

-10-

compact disc (CD-R) containing a computer program listing appendix in compliance with 37 C.F.R. §§ 1.96 and 1.52. The computer program listing has been deleted from the specification and instead provided on the compact disc filed herewith. No new matter has been added.

Objection to Claim 11 for Informalities

In the Office Action, the Examiner objected to claim 11 because it recites "retrieving flight information from the signal conversion database" twice. (OA ¶ 9.) Applicant has amended claim 11 to delete the second recitation of this step. Applicant thanks the Examiner for pointing out this inadvertent typographical error and submits that claim 11 is now in condition for allowance.

35 U.S.C. § 103 Rejections

In the Office Action, the Examiner rejected claims 11-13 under 35 U.S.C. § 103(a) as being obvious over *Richardson*. (OA ¶ 12.) The Examiner alleged that although *Richardson* fails to teach the step of verifying that the flight information is current before storing the flight information in the signal conversion database, it would have been obvious to one of ordinary skill in the art to modify the teachings of *Richardson* to include this step. (*Id.*) Applicant traverses.

As a preliminary matter, the Office Action does not address claim 13 with respect to the 35 U.S.C. § 103(a) rejection based on *Richardson*. Claim 13 recites features that are unique to it--namely, "determining whether flight information has been received from a flight information file server within a predetermined period of time" and "establishing communications with the flight information file server based on a determination that

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

-11-

flight information has not being received within a predetermined period of time."

Because the Office Action does not address whether *Richardson* teaches or suggests these features, the 35 U.S.C. § 103(a) rejection of claim is improper.

To establish a *prima facie* case of obviousness under 35 U.S.C. § 103, the Examiner must demonstrate that (1) *Richardson* discloses or suggests each and every limitation recited in the claims; (2) there is a reasonable probability of success of any modification of the teachings of *Richardson*, and (3) there exists some suggestion or motivation, either in the teachings of *Richardson* itself or in the knowledge generally available to one of ordinary skill in the art, to make such a modification in a manner resulting in the claimed invention. *See* M.P.E.P. § 2143 (7th ed. 1998). Furthermore, each of these requirements must be found in the prior art – not based on Applicant's own disclosure. *See Id.*

These requirements are not met with respect to claims 11-13. Claim 11, for example, recites a computer-readable medium containing instructions for controlling a data processing system to perform a method for audible announcement generation. The method comprises storing flight information in a signal conversion database, retrieving the flight information from the signal conversion database, sorting the retrieved flight information into a desired sequence, radio broadcasting the sequenced flight information and standardized opening messages, determining an end program sequence termination request, and verifying that the flight information is current before storing the flight information in the signal conversion database.

Richardson, in contrast, does not teach or suggest each of these recited features. *Richardson* instead discloses a telephone wide area network response

-12-

system. (*See, e.g.*, Abstract, col. 2, line 52 - col. 3, line 35; col. 10, line 60 - col. 14, line 31.) *Richardson*'s system includes a telephone system coupled to a wide area network (WAN) of computerized audio response nodes. (*See, e.g.*, col. 2, lines 52-60; col. 4, line 46 - col. 5, line 30.) *Richardson*'s system transfers converted audio messages digitally over the WAN to an audio response node closer to the destination of the message (*see, e.g.*, col. 13, lines 3-37), then plays the message from the closer node (*see, e.g.*, col. 13, line 53 - col. 14, line 4), instead of playing it directly across the long distance telephone line.

Richardson does not teach or suggest at least the feature of "radio broadcasting sequenced flight information" as recited in claim 11. Instead, *Richardson* is concerned exclusively with telephone audio response systems, which do not radio broadcast sequenced flight information to multiple users. Instead, *Richardson's* telephone audio response system uses a separate telephone call to communicate with each user.

For at least the reasons stated above, Applicant submits that because *Richardson* does not teach or suggest all the elements recited in independent claim 11, the 35 U.S.C. § 103(a) rejection of this claim is improper. Applicant further submits that claims 12 and 13, which depend from claim 11, are also allowable for at least the foregoing reasons. Accordingly, Applicant respectfully requests that the Examiner withdraw the 35 U.S.C. § 103 rejections of claims 11-13.

In view of the foregoing amendments and remarks, Applicant respectfully requests the reconsideration of this application and the timely allowance of the pending claims. The Examiner is invited to telephone the undersigned Applicant's

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

representative at 202-408-4118 if this would in any way expedite the prosecution of this application.

-14-

Application No.: 09/502,490
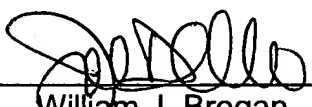Filed: February 11, 2000
Docket No.: 07099.0773-01

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

Dated: October 1**8**, 2002

By: _____ 42,477 for

William J. Brogan
Reg. No. 43,515

-15-

VERSION WITH MARKING TO SHOW CHANGES MADE TO CLAIMS

11. (Amended) A computer-readable medium containing instructions for controlling a data processing system to perform a method for audible announcement generation, the method comprising the steps of:

a) storing flight information in a signal conversion database;

b) retrieving flight information from the signal conversion database;

[b) retrieving flight information from the signal conversion database;]

c) sorting retrieved flight information into a desired sequence;

d) [articulating] radio broadcasting sequenced flight information;

e) [articulating] radio broadcasting standardized opening messages;

f) determining an end program sequence termination request; and

g) verifying that the flight information is current before storing the flight information in the signal conversion database.

13. (Amended) The computer-readable medium of claim 12, wherein the steps of verifying that the flight information is current comprises the substeps of:

determining whether flight information has been received from a flight information file server within a predetermined period of time;

establishing communications with the flight information file server based on a determination that flight information has not [being] been received within a predetermined period of time; and

performing steps a) through g).